

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 02-0114-01-CR-W-NKL
	)	
JAMES R. NICHOLS,	)	
	)	
Defendant.	)	

**ORDER**

Before the Court is Defendant James Nichols' pro se motion [Doc. # 414] for reconsideration of the Court's Order denying a Certificate of Appealability [Doc. # 413] on the Order denying Defendant's Petition for Writ of Error Coram Nobis and/or Audita Querela [Doc. # 410]. Defendant brings his motion under Rule 59 of the Federal Rules of Civil Procedure.

He argues that the Court erred – apparently in its Order on his Petition for Writ of Error Coram Nobis and Audita Querela – in construing his request for coram nobis relief as a motion for relief from sentence under 28 U.S.C. § 2255 after concluding that coram nobis relief was unavailable. As the Court stated in its Order on Defendant's Petition for Writ of Error Coram Nobis, regardless of how the petition was construed, it was not meritorious.

Defendant does not raise new arguments concerning his Application for a Certificate of Appealability or demonstrate a manifest error of law. "Rule 59(e) motions serve a limited function of correcting manifest errors of law or fact or to present newly discovered

evidence.” *Innovative Home Health Care, Inc. v. P.T.-O.T. Assocs. of the Black Hills*, 141 F.3d 1284, 1286 (8th Cir. 1998)) (citations omitted). As stated in the Court’s first Order on Defendant’s Application for a Certificate of Appealability [Doc. # 413], he has not made a substantial showing that jurists of reason would find it debatable whether his claim was procedurally defaulted; even if he could have shown otherwise, under the facts of this case, no reasonable jurist would find Nichols’ substantive claims debatable. *See generally Langley v. Norris*, 465 F.3d 861, 863 (8th Cir. 2006).

Therefore, Nichols’ motion for reconsideration [Doc. # 414] is DENIED.

s/ Nanette K. Laughrey  
NANETTE K. LAUGHREY  
United States District Judge

Dated: March 24, 2010  
Jefferson City, Missouri